

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6857

BILL NUMBER: SB 345

NOTE PREPARED: Mar 12, 2012

BILL AMENDED: Mar 10, 2012

SUBJECT: Statewide 911 System.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR: Rep. Thompson

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the Indiana Advisory Commission on Intergovernmental Relations to: (1) study the appropriate roles and responsibilities of the state and various political subdivisions in providing 911 and enhanced 911 services in Indiana; and (2) report its findings and recommendations to the Legislative Council and the Budget Committee not later than November 1, 2012.

It amends the statute concerning deceptive commercial electronic mail to provide that a communications service provider (rather than a telephone company or a commercial mobile radio service (CMRS) provider, as provided under current law) is not subject to a civil lawsuit for a violation of the statute. The bill repeals the statutes concerning: (1) the emergency telephone system fee (assessed by counties or municipalities for enhanced 911 service for users of wireline telephone service); (2) enhanced wireless emergency telephone service (and the accompanying fee assessed statewide on users of wireless service to provide for enhanced 911 service); and (3) emergency telephone notification systems.

It requires the Wireless Enhanced 911 Advisory Board to increase the amount of the prepaid wireless charge so that the amount of the charge imposed after June 30, 2012, equals \$0.50. The bill repeals the provision that provides for the expiration and sunset on July 1, 2013 (if certain conditions are met), of the statute establishing the enhanced prepaid wireless charge. It establishes a statewide 911 system (which does not include a wireline enhanced emergency telephone system funded at the county level before the bill's repeal of the statute governing the Wireline Enhanced Emergency 911 Fee on July 1, 2012).

This bill establishes the 13-member Statewide 911 Board to administer the new system. It provides that the Treasurer of State serves as the chair of the Board. This bill provides that the Board may do the following in addition to other enumerated powers: (1) Administer statewide 911 grants in accordance with state and federal

guidelines. (2) Obtain from each PSAP operating statistics and other performance measurements. With respect to the purchase of communications service or equipment by the Board, it provides that: (1) a contract for such a purchase must be awarded through an invitation for bids or a request for proposals; and (2) the Board must enter into a cooperative agreement with the Indiana Department of Administration for the Department to administer such a purchase using the Department's purchasing agents. It provides that the Board shall be considered a state agency for purposes of the statute governing the Indiana Transparency Internet web site.

This bill establishes the Statewide 911 Fund. It provides that the Fund is considered a trust fund and that no transfers may be made from the Fund by the State Board of Finance or the Budget Agency. The bill appropriates money in the Fund. The bill provides that the Board shall administer the Fund. It provides that the Treasurer of State may invest money in the Fund. The bill requires the State Board of Accounts to audit the Fund annually. The bill requires the Board to impose a monthly Statewide 911 Fee on each standard user of communications service in Indiana. It provides that the amount of the initial fee is \$0.90. The bill provides that the following users of communications service are exempt from the fee: (1) The federal government or a federal agency. (2) The state or a state agency or instrumentality. (3) A political subdivision or an agency of a political subdivision. (4) A user that accesses communications service solely through a wireless data-only service plan. This bill requires communications service providers to collect the fee as part of the monthly billing process. It requires the Board to deposit the fees collected into the Fund. The bill provides that the fee may not be raised or lowered more than one time in a calendar year. It provides that the fee: (1) may not be raised or lowered more than \$0.10 without legislative approval; and (2) may not be raised by \$0.10 or less without review by the Budget Committee. This bill prohibits a state agency or a local governmental unit from imposing any additional fee relating to the provision of 911 service. It provides that the Board shall require a provider to report to the Board, on at least an annual basis, the amount of fees collected from all of the provider's standard customers and remitted to the Board.

The bill allows the Board to retain in each state fiscal year the lesser of: (A) 10% of the statewide 911 fees deposited in the Fund in the previous state fiscal year; or (B) the amount of fees deposited in the Fund in the previous state fiscal year that would provide for the operating expenses of the statewide 911 system during the state fiscal year for which the fees are retained; to recover the Board's administrative expenses and to develop, operate, and maintain a statewide 911 system. The bill specifies how the Board must distribute money from the Fund to counties. It provides that in determining a distribution from the Fund for a county for any state fiscal year beginning after June 30, 2012, the Board shall ensure that the distribution is at least equal to the average annual amount distributed to the county in wireless 911 fees and to all PSAPs in the county in wireline 911 fees during the three state fiscal years ending: (1) June 30, 2009; (2) June 30, 2010; and (3) June 30, 2011; increased by a percentage that does not exceed the percent of increase in the Consumer Price Index during the preceding twelve months. The bill provides that if any statewide 911 fees remain in the Fund after these ensured distributions, the Board shall distribute the fees as follows: (1) 90% of the fees shall be distributed to the counties based upon each county's percentage of the state's population. (2) 10% of the fees shall be distributed equally among the counties.

This bill specifies the permissible uses of funds distributed to a PSAP. The bill requires each PSAP to annually report to the Board all call data and statistics specified by the Board. This bill provides that if the Board verifies that an expenditure by a PSAP does not comply with requirements of the statute, the Board shall ensure that the Fund is reimbursed in the dollar amount of the noncomplying expenditure from any source of funding available to the PSAP or to a unit in which the PSAP is located. It requires a communications service provider to provide to a PSAP the necessary user data to enable the PSAP to implement and operate a 911 system. The bill provides that proprietary information submitted to the Board is confidential. It allows a county to establish

an emergency notification system with the approval of the Board.

The bill retains those provisions from the repealed statute concerning enhanced wireless emergency telephone service that provide that after December 31, 2014, a county may not contain more than two PSAPs. It provides that after December 31, 2014, if a county contains more than two PSAPs, the county may not receive a distribution from the fund until the county contains no more than the authorized number of PSAPs. The bill requires the State Board of Accounts and the Board to submit certain reports concerning the fund and the use of statewide 911 fees by PSAPs to the Budget Committee for the two calendar years ending: (1) December 31, 2013; and (2) December 31, 2014. It requires the Budget Committee to review the statewide 911 system for the same two calendar years. It requires the Budget Committee to submit to the Legislative Council, not later than June 1, 2015, a report that includes a recommendation as to whether the statewide 911 fee should continue to be assessed and collected after June 30, 2015. The bill provides that if the Budget Committee does not recommend that the statewide 911 fee should continue to be assessed and collected after June 30, 2015, the statewide 911 fee expires July 1, 2015, and may not be collected or assessed after June 30, 2015.

It specifies that funds that remain on June 30, 2012, in the Wireless Emergency Telephone System Fund shall be transferred on July 1, 2012, to the Statewide 911 Fund. The bill provides that funds that remain on June 30, 2012, in: (1) a county wireless emergency telephone system fund; or (2) a county wireline emergency telephone system fund; shall be transferred on July 1, 2012, by the county treasurer to the new county 911 fund required to be set aside by the county treasurer under the act. It also makes conforming amendments.

Effective Date: Upon passage; July 1, 2012.

Explanation of State Expenditures: *Advisory Commission on Intergovernmental Relations:* The bill requires the Indiana Advisory Commission on Intergovernmental Relations to study the appropriate roles and responsibilities of the state and various political subdivisions in providing 911 and enhanced 911 services. It requires the Commission to report its findings and recommendations to the Legislative Council and the Budget Committee not later than November 1, 2012. If the committee were to hold additional meetings to address this topic, there would be additional expenditures for per diem and travel reimbursement for the committee members. Any additional expenditures must be within the committee's budget.

Statewide 911 Board: This bill creates the Statewide 911 Board. The Board consists of 13 members and is responsible for administering the Statewide 911 system. The Board must also set procedures for the collection and remittance of the Statewide 911 fees, and distribute appropriate amounts to each PSAP. The costs of administering the Statewide 911 system will be paid from the Statewide 911 fund. The bill allows the Board to retain the lesser of 10% of the statewide 911 fees collected in the previous state fiscal year; or the amount of fees collected in the previous state fiscal year that would provide for the operating expenses of the statewide 911 system during the state fiscal year for which the fees are retained.

Budget Committee: The bill requires the Budget Committee to conduct a review of the Statewide 911 system not later than June 1, 2015, and to report its findings to the Legislative Council. It requires the Budget Committee to include a recommendation as to whether the Statewide 911 fee should be assessed and collected after June 30, 2015. The bill provides that if the Budget Committee does not recommend that the Statewide 911 fee should continue to be assessed and collected after June 30, 2015, the Statewide 911 fee expires July 1, 2015. If the committee were to hold additional meetings to address this issue, there would be additional expenditures for legislator per diem and travel reimbursement for the committee members.

State Board of Accounts: The State Board of Accounts is to annually audit the Statewide 911 fund to determine if the fund is being managed appropriately. The bill also requires the State Board of Accounts to annually audit each PSAP that receives a distribution.

Explanation of State Revenues: *Statewide 911 Fee:* This bill creates a Statewide 911 system and provides that the statewide system expires July 1, 2017. Effective July 1, 2012, the bill repeals the existing statutes concerning the enhanced emergency telephone fee and the enhanced wireless 911 fee. The bill modifies the existing statute concerning the prepaid wireless fee and provides that the Statewide 911 Board shall increase the prepaid wireless fee so that the amount of the fee equals \$0.50.

The bill imposes an initial \$0.90 statewide monthly fee for 911 services throughout the state. The bill provides that the Board may adjust the Statewide 911 fee to ensure adequate revenue for the Board to fulfill the Board's duties subject to the following restrictions:

- (1) The fee may not be raised by an amount that is less than or equal to \$0.10 without review by the Budget Committee.
- (2) The fee may not be raised or lowered by an amount that is more than \$0.10 without legislative approval.

The current wireless emergency enhanced 911 fee is \$0.50 per phone per month, the prepaid wireless fee is \$0.25 per phone, and the enhanced emergency telephone system fee varies by county, from about \$0.39 to \$3.00 per phone per month. Therefore, fees on regular wireless will increase to \$0.90, the prepaid wireless fee would increase to \$0.50, and the fee on land lines to replace the enhanced emergency telephone system fee will increase or decrease depending on what is currently charged by counties. Eight-one counties have land line rates over \$0.90, and eleven counties have rates below \$0.90.

It is estimated that the Statewide 911 Fee proposed in this bill would raise additional revenue of \$19.91 M from regular wireless phones and \$1.98 M from prepaid wireless phones. These estimates are based on an average of historical fees collected on regular wireless and prepaid phones. The table below shows estimated revenue collected under the current rates and the proposed statewide rate on two of the three fees.

	Revenue Raised under Current Rates	Revenue Raised under Proposed Statewide Rate	Incremental Revenue
Prepaid Wireless phones	\$1.98 M	\$3.97	\$1.98
Regular Wireless phones	\$24.89 M	\$44.80	\$19.91
Total	\$26.87 M	\$48.77	\$21.90

LSA does not have reliable data to estimate how much revenue would be raised from applying the \$0.90 statewide fee to land lines to replace the enhanced emergency telephone fee which is repealed under this bill.

The statewide fee is required to be imposed by the voice communication service providers, who are eligible to retain 1% of the fees for collection expenses.

Statewide 911 Fund: The bill creates the nonreverting Statewide 911 Fund, which will be administered by the Statewide 911 Board. The Statewide 911 fees will be deposited in this fund, and distributed to PSAPs based on the criteria set forth in the bill.

Penalty Provision: The bill creates a number of Class A misdemeanors for disclosure of certain data, misuse of an automatic alarm, automatic dialer, or other automated alerting device system and misuse of the 911 system. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Explanation of Local Expenditures: *PSAP Reporting Requirements:* Not later than January 31 of each year, this bill requires each PSAP to report to the Board the following:

- (1) All expenditures made during the immediately preceding calendar year from Statewide 911 fee distributions.
- (2) Call data and statistics for the immediately preceding calendar year, as specified by the Board and collected in accordance with any reporting method established or required by the Board.

Penalty Provision: A Class A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Statewide 911 Fee Distribution:* The bill provides that funds that remain on June 30, 2012, in a county's wireless emergency telephone system fund and wireline emergency telephone system fund shall be transferred on July 1, 2012, by the county treasurer to the new county 911 fund required to be set aside by the county treasurer under the bill. The bill specifies how the Board must distribute money from the fund to counties. It provides that in determining a distribution to a county for any state fiscal year beginning after June 30, 2012, the Board shall ensure that the distribution is at least equal to the average annual amount distributed to the county in wireless 911 fees and to all PSAPs in the county in wireline 911 fees during the three state fiscal years ending:

- (1) June 30, 2009;
- (2) June 30, 2010; and
- (3) June 30, 2011;

increased by a percentage that does not exceed the percent of increase in the Consumer Price Index during the preceding twelve months.

Additionally, the bill requires that if any Statewide 911 fees remain in the fund after the ensured distributions, the Board shall distribute the fees as follows:

- (1) 90% of the fees shall be distributed to the counties based upon each county's percentage of the state's population.
- (2) 10% of the fees shall be distributed equally among the counties.

The bill also provides that after December 31, 2014, if a county contains more than two PSAPs, the county may not receive a distribution from the fund for any PSAP in the county until the county contains no more than the authorized number of PSAPs. Current statute provides that after December 31, 2014, a county may not contain more than two PSAPs with some exceptions. A county may contain more than two PSAPs as long as any additional PSAPs are operated by:

- (1) a state educational institution;
- (2) an airport authority established for a county having a consolidated city; or
- (3) in a county having a consolidated city, an excluded city (as defined in IC 36-3-1-7).

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

Background Information: The current regular wireless 911 fee is \$0.50 per phone per month, and the prepaid wireless fee is \$0.25 per phone. Revenues received from fees for FY 2009 through FY 2011 are provided in the table below.

Fiscal Year	Revenue from regular wireless enhanced 911 fee	Revenue from prepaid enhanced fee
2009	\$25.18 M	\$3.51 M
2010	\$24.60 M	\$3.75 M
2011	\$24.89 M	\$2.32 M*
* Prepaid fee decreased from \$0.50 to \$0.25 per prepaid phone		

The bill provides that a PSAP may use a distribution only for the following:

- (1) The lease, purchase, or maintenance of communications service equipment.
- (2) Necessary system hardware and software and data base equipment.
- (3) Personnel expenses, including wages, benefits, training, and continuing education, only to the extent reasonable and necessary for the provision and maintenance of:
 - (A) the statewide 911 system; or
 - (B) a wireline enhanced emergency telephone system funded under IC 36-8-16 (before its repeal on July 1, 2012).
- (4) Operational costs, including costs associated with:
 - (A) utilities;
 - (B) maintenance;
 - (C) equipment designed to provide backup power or system redundancy, including generators; and
 - (D) call logging equipment.
- (5) An emergency notification system that is approved by the Board under section 40 of this chapter.
- (6) Connectivity to the Indiana Data and Communications System (IDACS).
- (7) Rates associated with communications service providers' enhanced emergency communications system network services.
- (8) Mobile radio equipment used by first responders, other than radio equipment purchased under subdivision (9) as a result of the narrow banding requirements specified by the Federal Communications Commission.
- (9) Up to fifty percent (50%) of the costs associated with the narrow banding or replacement of radios or other equipment as a result of the narrow banding requirements specified by the Federal Communications Commission.

A PSAP may not use a distribution for the following:

- (1) Construction, purchase, renovation, or furnishing of PSAP buildings.
- (2) Vehicles.

State Agencies Affected: Treasurer of State; Advisory Commission on Intergovernmental Relations; Budget Committee; State Board of Accounts.

Local Agencies Affected: Public Safety Answering Points.

Information Sources: Barry Ritter, Indiana Enhanced Wireless 911 Board, 317-234-2507; Vicky Pool, TOS, 317-232-6260; County monthly land line rates as of May 2, 2011.

Fiscal Analyst: Diana Agidi, 317-232-9867.